

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARY ANNE PEELER, )  
                        )  
                        Plaintiff, )  
                        )  
                        v.                 )              1:06CV00321  
                        )  
HARTFORD LIFE AND ACCIDENT )  
INSURANCE COMPANY,         )  
                        )  
                        Defendant. )

O R D E R

Defendant has filed a motion to dismiss and strike that part of plaintiff's complaint in paragraph 13(c) wherein plaintiff seeks to recover, in addition, "Interest on funds plaintiff borrowed to replace the lost income necessary to maintain plaintiff's household." This is an ERISA action filed pursuant to 29 U.S.C. § 1001, et seq. Defendant states that extra-contractual damages are not available for such a lawsuit citing, among other cases, Mertens v. Hewitt Associates, 508 U.S. 248, 113 S.Ct. 2063, 124 L.Ed.2d 161 (1993).

Plaintiff has not responded to the motion in writing, but rather has orally advised the Court that plaintiff does not oppose this motion. The Court finds good cause for the motion and, in addition, plaintiff does not oppose it. Therefore, defendant's motion shall be granted to the following extent,

**IT IS ORDERED** that defendant's motion to dismiss and strike (docket no. 6) is granted to the extent that paragraph 13(c) of the

complaint is hereby denied and dismissed and plaintiff shall not recover any damages thereon.

Russell A. Eliason  
United States Magistrate Judge

June 27, 2006